IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

Crl.Rev.Pet.No. 460 of 2000()

CRA.370/1995 of V ADDL.SESSIONS COURT, ERNAKULAM
CC.427/1992 of JUDL.MAGISTRATE OF FIRST CLASS-I, ERNAKULAM

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REVN. PETITIONER:

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1. MANI, S/O.NARAYANAN,
ALAKKAPPILLIL VEEDU,
PARPPAKODU DESOM,
ETAKKATTUVAYAL VILLAGE.

2. DIVAKARAN, S/O.NARAYANAN,
-DO- -DO-

3. MOHANAN, S/O.NARAYANAN,
-DO- -DO-

4. PRABHAKARAN, S/O.GOVINDAN,
KURUMBATHOOR THATATHIL VEEDU,
-DO- -DO-

5. APPU, S/O.GOVINDAN,
-DO- -DO-

6. KESAVAN, S/O.KUNJAN,
ALAKKAPPILLIL VEEDU,
-DO- -DO-

7. MOHANAN, S/O.KUNJAN PILLA,
KARIMBRAYIL VEEDU,
-DO- -DO-

8. CHANDRAN, S/O.KUNJAN PILLA,
-DO- -DO-

BY ADV. SRI.S.RAJEEV

Crl.Rev.Pet.No. 460 of 2000()

RESPONDENTS:

STATE REPRESENTED BY THE C.I.OF POLICE,
MULANTHURUTHY,
(CRIME NO.98/1991)

BY PUBLIC PROSECUTOR, SRI AMJAD ALI
SRI.T.RAVI KUMAR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 17/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.R.P.No.460 of 2000(A)

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Dated this the 17th day of August, 2007

O R D E R

The revision petitioners are accused in C.C.No.427/1992 in the file of the Judicial Magistrate of the First Class-I, Ernakulam, with respect to the offences under Sections 143, 147, 148, 447, 452, 427, 324 read with Section 149 I.P.C. It is reported that the sixth accused is no more. Accused 1 to 3 stands convicted and sentenced to undergo rigorous imprisonment for one year each for the offence under Section 452 I.P.C.; and accused 2 and 3 to undergo rigorous imprisonment for six months each for the offence under Section 324 I.P.C.; all the accused are convicted and sentenced to pay a sum of Rs.500/- each for the offence under Section 143 I.P.C and in default to undergo simple imprisonment for one month each; all the accused stands convicted and sentenced to pay a fine of Rs.500/- each for the offence under Section 147 I.P.C and in default to undergo simple imprisonment for one month each.

2. The prosecution case is that on 06/05/1991, at about 7a.m, the revision petitioners/accused tried to construct steps from the

lane in front of the residence of PW.1. PW.2, the wife of PW.1, objected and she was beaten by the third accused with a stick and when PW.1 tried to intervene, the third accused beat him with the stick on his forehead and they were pushed into their house by accused 1 to 3. The second accused also beat PW.2 on the head and the first accused stabbed PW.1 with a knife. The third accused stabbed PW.1 with a knife and, PW.1 sustained injuries on his forearm and right palm and fingers when he tried to ward off the blows. Accused 4 to 8 pelted stones on the house of PW.1 causing considerable damages. The evidence adduced in the matter consisted of the testimony of PWs.1 to 7, Exts.P1 to P8 and MO.1 series and MO.2 series. Defence examined DWs.1 to 4 and Exts.D1 to D7.

3. I find that PWs.1 to 3 are the occurrence witnesses of whom PWs.1 and 2, the injured--the husband and wife, have testified with respect to the incident in detail. No contradictions with respect to the previous statements have been brought out in the cross-examination. PW.3, an independent witness, has also testified that he has seen the incident up to the stage when

PWs.1 and 2 were pushed inside the house. The version of PW.3 also stands not discredited. No contradictions or omissions with respect to his previous statement has been brought out. It is contended that the weapons have not been recovered. It is settled position that non recovery of weapons is not sufficient to discard the prosecution evidence. The version of the defence witnesses were rightly rejected as it appeared that they are interested witnesses.

4. In the circumstances, I find no reason to interfere with the concurrent findings of the courts below in exercise of the revisional jurisdiction. The conviction is confirmed.

5. The counsel for the revision petitioners has only pleaded for modification of the sentence pointing out that since the commencement of the proceedings 15 years have elapsed and, so far the accused were facing the criminal proceedings. In the circumstances, the sentence is modified as below:-

i. Accused 1 to 3 are sentenced to imprisonment till the rising of the court and to pay a

compensation of rupees twenty-five thousand each to PWs.1 and 2 for the offence under Section 452 I.P.C.

ii. The sentence imposed for the offences under Sections 143 and 147 are confirmed.

iii. No separate sentence is awarded for the offence under Section 324 I.P.C.

iv. The accused/revision petitioners are granted four months time to remit the compensation amount.

v. Accused 1 to 3 shall altogether deposit a sum of rupees seventy-five thousand which will be disbursed to PWs.1 and 2.

vi. Accused 1 to 3 shall appear before the Judicial Magistrate of the First Class-I, Ernakulam, on 10/12/2007, to receive the sentence.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.R.P.No.460 of 2000(A)

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O R D E R

17th August, 2007